

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	17-CR-48 (JBW)
Plaintiff,	:	United States Courthouse
-against-	:	Brooklyn, New York
JANE DOE,	:	Thursday, July 19, 2018
Defendant.	:	3:00 p.m.

TRANSCRIPT OF CRIMINAL CAUSE FOR BOND REVOCATION HEARING  
BEFORE THE HONORABLE ROBERT LEVY  
UNITED STATES MAGISTRATE JUDGE

## A P P E A R A N C E S:

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Proceedings

2

1                    (In open court.)

2                    THE COURT: Good afternoon. Please have a seat  
3 everyone.

4                    So are we ready to start or do we need to wait a  
5 few minutes?

6                    MR. JACOBSON: We're ready, Judge.

7                    THE COURT: All right. So we're here in USA  
8 versus Jane Doe, 17-CR-48.

9                    Counsel, please state their appearances for the  
10 record.

11                  MS. DEMAS: Good afternoon, Your Honor. For the  
12 Government, Tiana Demas, and with me is Bianca Carter,  
13 Pretrial Services.

14                  MR. JACOBSON: Good afternoon.

15                  MS. CARTER: Good afternoon.

16                  MR. JACOBSON: Good afternoon, Your Honor. Sam  
17 Jacobson, Federal Defenders, on behalf of Ms. Doe who is  
18 present next to me. We're joined today by Vivianne Guevara,  
19 social worker; and Karina Buruca, paralegal in our office;  
20 and Ms. Von Dornum, who should be here shortly.

21                  THE COURT: Okay. Thank you.

22                  All right. Should we start with  
23 Pretrial Services, or has everyone seen the  
24 Pretrial Services services report?

25                  MR. JACOBSON: Yes, we have, Judge.

Proceedings

3

1 MS. DEMAS: Yes.

2 THE COURT: Okay. Is there anything you want to  
3 add to the report?

4 MS. CARTER: Your Honor, we still haven't heard  
5 back from Patrick McFarland for the BOP, the halfway house  
6 contractor.

7 THE COURT: Okay.

8 MS. CARTER: So there's no update to the  
9 memorandum regarding the transitional housing.

10 THE COURT: Okay. Is he not answering his phone  
11 or he just doesn't --

12 MS. CARTER: He's just not answering. We've had  
13 both of the halfway houses also reach out to him after we  
14 spoke to him, and we haven't heard anything back.

15 THE COURT: So presumably if he gives a yes  
16 answer, there would be several places for her, presumably  
17 two places for her?

18 MS. CARTER: Correct.

19 THE COURT: Okay.

20 Does anyone have a comment on that at this point  
21 or should we just wait until we hear?

22 MS. DEMAS: Your Honor, the Government's position  
23 remains the same with respect to what location best  
24 maintains the safety of the community and maintains the risk  
25 of flight and that is at the MDC where the defendant

Proceedings

4

1 currently is now. I still don't know what the answer, that  
2 Ms. Carter explained to me at least one of these halfway  
3 houses, I think, takes all the phones away from the  
4 residents so that would certainly be a step in the right  
5 direction. I understand that there is a computer, and I  
6 believe this is the place in New Jersey; however, it's quite  
7 far out in New Jersey, I think close to Camden, which is  
8 pretty close to Pennsylvania.

9 THE COURT: Right.

10 MS. DEMAS: So I don't know how that would affect  
11 Pretrial's ability to even continue supervising the  
12 defendant. I think they would have to transfer that  
13 supervision to the District of New Jersey, and I don't know  
14 if the District of New Jersey is willing to take that on.  
15 So, in fact, that probably needs to be answered before the  
16 viability of the New Jersey halfway house is addressed.

17 THE COURT: It would also make it difficult for  
18 her to meet with counsel.

19 MS. DEMAS: Yes.

20 Although I do think that maybe -- and maybe I'm  
21 just conflating all places in New Jersey, but I thought that  
22 this may have been the location that defense counsel  
23 suggested.

24 MR. JACOBSON: Well, we hadn't initially proposed  
25 a halfway house, but it's close to the family member that we

Proceedings

5

1 were trying to find suitable housing there.

2 MS. DEMAS: Correct.

3 MR. JACOBSON: And I think our proposal is  
4 essentially that any of these re-entry facilities would be  
5 suitable for Ms. Doe. I understand that Pretrial might have  
6 a preference for the New Jersey facility because of the  
7 phone restrictions. Certainly the Brooklyn or the Bronx  
8 halfway house would enable her to be closer to her doctors  
9 at Bronx Lebanon Hospital and her counsel. I know there  
10 were logistical and monetary issues based on who would make  
11 the referral and who would actually pick up the tab.

12 I did look into a little bit of the costs of  
13 incarceration versus a halfway house and on the whole, the  
14 halfway house -- the daily rate is generally cheaper than  
15 what BOP pays in costs for its own facilities. So I think  
16 MDC is upwards of a hundred dollars a day and a halfway  
17 house is usually in the 80s or 90s. I think there's a BOP  
18 report that suggests that nationwide, and again, there are a  
19 lot of rural prisons, but it's about \$80 per day for the  
20 average prison and \$72 for the average halfway house. So I  
21 know there is an issue of whether it's fungible in terms of  
22 BOP paying versus Pretrial. But it is cheaper than the cost  
23 of holding her at MDC or MCC.

24 MS. CARTER: Just to point out, Your Honor, in  
25 relation to the halfway house, we agree with Counsel if that

Proceedings

6

1 was the Court's route. Being closer to us would be best  
2 because all of our doctors' appointments are here and the  
3 social workers, so that's why we are reaching out to them  
4 locally definitely to see if we could get her a place there,  
5 and as you noted, we're still waiting to hear back.

6 THE COURT: Okay.

7 Has the Government found out any additional  
8 information through its investigators as to what was on the  
9 Facebook account or postings?

10 MS. DEMAS: As I mentioned to the Court, the only  
11 way for the Government to be able to figure that out on our  
12 own would be to get a search warrant, which would take time  
13 to get that from Facebook. The first step that we discussed  
14 at the status -- or I'm sorry, the bail hearing -- or the  
15 revocation hearing, excuse me, on Tuesday, with the  
16 Federal Defenders we're going to go into the defendant's  
17 Facebook account and see if they can download it.

18 THE COURT: Okay.

19 MS. DEMAS: I understand from Mr. Jacobson that he  
20 today went into the account, has not looked through it  
21 completely, and that he has somebody at Federal Defenders of  
22 New York looking into how they can download it, and I gave  
23 them direction on that point. But I don't understand  
24 Mr. Jacobson to have made an offer that he would necessarily  
25 turn it over to us because it doesn't sound like he's done

## Proceedings

7

1 his review. If the result of that review is that they do  
2 not want to turn it over to the Government, then we  
3 obviously will need the search warrant and obtain it from  
4 Facebook. And then I would anticipate, just based on half  
5 the response time, usually by the time the warrant is served  
6 on Facebook, we receive a response usually in approximately  
7 two weeks but sometimes longer.

8 THE COURT: Okay.

9 MR. JACOBSON: And I can add a little bit to that,  
10 Judge, just based on my kind of cursory review of the social  
11 media platforms. I did review the Google Plus account. We  
12 had some discussion about whether that was social media  
13 having conceded that you are able to post things to a  
14 Google Plus account. So I reviewed the entirety of  
15 Ms. Doe's Google Plus account. There are about 10 or 15  
16 posts. I would characterize them -- and the Government can  
17 jump in if I'm missing anything -- but there are dietary  
18 posts. There are a number of posts about eating more  
19 vegetables and less meat. There's a post about her counsel  
20 and her feelings about her counsel. There are some general  
21 Islamic quotes, for example, eating at the end of Ramadan.  
22 There are some cooking recipes, and there are posts about  
23 her medical situation and the pain that she's in. My  
24 extremely brief review of the Facebook profile, and I was  
25 strictly looking at the posts that were made to her account,

Proceedings

8

1 is that it was similarly innocuous. There were posts,  
2 general Islamic quotes, post about fashion, posts about  
3 diet, cooking recipes, photos of cats.

4 MS. DEMAS: Just to put a somewhat finer point on  
5 it. However, Your Honor, the things that the Government  
6 would be most concerned about, and that was clearly a  
7 violation -- all of it was a violation of the terms of her  
8 pretrial release, but the specific communications that are  
9 most concerning are the ones with people on whom the  
10 defendant had previously recorded. Those would not be in  
11 the general host section of Facebook. Those would be in the  
12 Facebook direct messaging section, and it doesn't sound like  
13 Mr. Jacobson has reviewed those.

14 MR. JACOBSON: I have not, Judge, and we will. I  
15 do think I can add a little bit of color to what some of  
16 these communications were that are mentioned in the Pretrial  
17 report, both from my review of the account and from the  
18 investigation that I've done about the nature of the  
19 communications. I think I would -- we hadn't discussed in  
20 full Paragraph 5 of the Facebook contacts that were made,  
21 and that was with Umm Oyiam. That was an individual that  
22 Ms. Doe had previously known.

23 There's a full section of that paragraph of the  
24 pretrial memorandum that says that Ms. Doe contacted the  
25 individual via telephone. I would just add that she never

## Proceedings

9

1 actually made contact. It was just a voicemail. There is a  
2 suggestion that there were a number of messages. I can say,  
3 and I know this from having spoken to an Islamic  
4 organization that I was in contact with, the nature of those  
5 communications was Ms. Doe trying to find support within the  
6 Muslim community for herself, and she absolutely went about  
7 it in the wrong way. She should have worked through  
8 Pretrial who is there to support her and Hope House and her  
9 counsel. But I do know, because I spoke to the  
10 organization, that it was to find a charitable Muslim  
11 organization that could provide housing.

12 I think that one of the issues in the Bronx was  
13 that there were no other Muslims in the residence, so there  
14 were issues with having halal and being able to do group  
15 prayer sessions. So she very much wanted to be in a place  
16 where there were other Muslims, understandably. And so she  
17 was reaching out wrongly to organizations that she felt  
18 could provide that help. But as I said last time, this had  
19 nothing to do with ISIS or any foreign organizations. It  
20 was simply an attempt to find herself a better and more  
21 suitable situation. And then I think a number of other  
22 individuals saw that she had connected on Facebook to this  
23 individual, and perhaps sent her Facebook requests. But I  
24 don't think she -- there was no contact with the majority of  
25 the people in the top section of this memorandum.

## Proceedings

10

1           As to the suggestion, and I don't think I  
2 mentioned this at our previous appearance, but the bottom  
3 section, Paragraphs 1 through 4 of the searches that were  
4 conducted, I do think it's important that really these were  
5 just Google searches. And, yes, they were Google searches  
6 about people she had previously provided information about,  
7 and that was the wrong way for her to go about it, but I  
8 truly believe that that was curiosity. It was nothing  
9 malicious. She was not trying to obstruct justice or tamper  
10 with witnesses or try to provide information about her  
11 cooperation. She was merely searching on Google to find out  
12 what had happened to these individuals.

13           For example, Paragraph 3, Abu Isa Al Amriki is  
14 deceased and was killed by American forces. And I think the  
15 attempt was being made to figure out exactly what had  
16 happened. But these were not individuals, for the most  
17 part, that she could have contacted with the exception of  
18 the individual enumerated in Paragraphs 1 and 2. As to  
19 Paragraph 1, that was also an individual that she knew in  
20 her previous life and was curious about -- I think she was  
21 primarily curious about whether he had been arrested and  
22 never was able to reach that phone number but was merely  
23 trying to find out if he was still on the map, so to speak,  
24 and available at that number. But she was not in any way  
25 trying to have a substantive conversation with any of these

## Proceedings

11

1 people. And, again, for most of these individuals, it was  
2 just a Google search. It was not any sort of communications  
3 with them. And the same applies to Numbers 1 through 7 for  
4 the Facebook account.

5 So when she did -- when there's evidence that she  
6 did reach out, most of these instances, there was never a  
7 connection that was made or a connection to a voicemail or  
8 nothing was actually left.

9 MS. DEMAS: Your Honor, I feel like the record has  
10 now become somewhat muddled because, first of all, in the  
11 violation report there was never any indication for the  
12 second half of the page, individuals 1 through 4 that the  
13 defendant had actually contacted them. Giving Number 3 as  
14 an example, Abu Isa Al Amriki, he was an extremely well  
15 known and prolific ISIS recruiter who was based overseas,  
16 whose wife the defendant communicated with before both  
17 Abu Isa Al Amriki and his wife were killed. They were  
18 killed during the time that the defendant was communicating  
19 with them before she was arrested. She knew before she was  
20 arrested that they had been killed. There was speculation  
21 that they had been killed by drones. So the idea to the  
22 extent that it was suggested that Ms. Doe was Google  
23 searching that person to figure out what had happened to  
24 him, she knew full well what had happened to him, and she  
25 knew that as of the spring of May of 2015 because she had

## Proceedings

12

1 made plenty of Facebook posts about it and it was about that  
2 point in time when the defendant then began communicating  
3 with other ISIS facilitators in an effort to help people  
4 wanting to make -- to travel to ISIS-controlled territory  
5 from the United States, you know, to travel abroad. So I  
6 think that that point needs to be clarified.

7           Secondly, to the extent that Mr. Jacobson has  
8 suggested that the defendant did not actually make contact  
9 with the individuals listed in 1 through 7 on Facebook, as  
10 Mr. Jacobson previously indicated, he never reviewed the  
11 defendant's direct messages. I understand he reviewed her  
12 Facebook posts. The Facebook posts would not indicate  
13 whether or not she had made contact with the individuals and  
14 sent messages to them. Certainly the pen register results  
15 which the Government has and on which this violation report  
16 was based on, shows that the defendant was indeed exchanging  
17 direct messages with these individuals. Sometimes received,  
18 but also she sent. So without knowing the content of those  
19 messages, I think it's very difficult to accept. I would  
20 caution anybody to accept Mr. Jacobson's representation that  
21 the defendant did not actually communicate with these  
22 people.

23           With respect to Hassan Yahya, Number 1, on the  
24 second part of Page 2, the defendant called his place of  
25 work, and it was only by happenstance that that number

## Proceedings

13

1 happened to have been disconnected. But if it hadn't been  
2 disconnected, someone, presumably him, would have answered.  
3 So the idea that because it was disconnected that these  
4 actions are somehow less concerning, I don't think that  
5 that's true at all.

6                 The defendant's actions show that she fully  
7 intended to communicate with people. Otherwise, you don't  
8 make a phone call. So the concerns that the Government  
9 previously raised about the defendant reaching out to  
10 individuals whom she had reason to believe are under  
11 Government investigation and corresponding with them and  
12 potentially warning them, that that remains just as strong  
13 as it was a few days ago. And I have not heard anything  
14 that that would suggest that that concern has been  
15 alleviated.

16                 MR. JACOBSON: And, Judge, if I could just  
17 clarify? I'm not suggesting that she didn't have  
18 communications with any of these individuals. She did have  
19 communications with the individual in Number 5. But again,  
20 I have spoken to the fruits of that communication because it  
21 was an Islamic organization that provides charitable  
22 services. So it was not a conversation -- and again, it was  
23 absolutely not the right way to go about obtaining these  
24 services, but that's what she was trying to do. And she  
25 did -- also the individual in Paragraph 5 there was a phone

## Proceedings

14

1 call that didn't connect. And I, of course, agree that  
2 there's this phone call that Pretrial and the Government  
3 believe was placed, a number that was previously associated  
4 with the individual in Number 1 and it didn't connect. And  
5 I don't think that she had an intent to have any substantive  
6 conversation with the individual. I think that she was just  
7 trying to see if he picked up the phone or if someone -- if  
8 he was still at -- if he was still on the street or had been  
9 arrested, and that's understandable. And that is certainly  
10 not the way to approach this, but it's understandable that  
11 someone who had entered into a cooperation agreement would  
12 want to know if some of those individuals had been arrested,  
13 totally separately from a malicious intent of trying to  
14 obstruct justice or tamper with witnesses. There's a much  
15 more innocent and much more -- much more obvious explanation  
16 of just trying to see, which is consistent with the contacts  
17 that she made trying to search people -- Google other  
18 individuals that she had no way of contacting.

19 And I think there's a suggestion on the next page  
20 of contacts that were made with two individuals in Morocco.  
21 Those are people who have no affiliation whatsoever with  
22 radical groups and were people she had known when she was  
23 living in Morocco.

24 And there's also the mention of the Arabian Travel  
25 Trans Corporation, which sounds like it would be an Arabian

Proceedings

15

1 travel agency, but it's actually the car service here in  
2 New York that --

3 THE COURT: Is that right?

4 MR. JACOBSON: It's a car service -- if you Google  
5 it, it's a car service here in New York City.

6 THE COURT: Even though it's self-described as a  
7 travel agency?

8 MR. JACOBSON: Right.

9 THE COURT: Because that's what we read.

10 MR. JACOBSON: That's a trumped-up title, I would  
11 say. They provide --

12 MS. VON DORNUM: Travel from here to the Bronx.

13 MR. JACOBSON: Right.

14 And I can say this, too, because I have done this  
15 for Ms. Doe, and you will see that the phone number matches  
16 as well. I can say that I have done this previously for  
17 Ms. Doe as has my co-counsel and social workers and  
18 paralegals. But she's been hospitalized many times since  
19 she's been out on bail, and when she gets discharged from  
20 the hospital in the middle of the night, she has no way of  
21 getting home. And so on several occasions, if we're still  
22 awake at that hour, we will order an Uber for her or try to  
23 make sure that her MetroCard is filled. But for travel from  
24 Bronx Lebanon Hospital back to Hope House, I think she was  
25 looking for cars. That really -- so that is the

Proceedings

16

1 explanation.

2 I can see that the Court's clerks have found the  
3 website and that is, in fact, what it is.

4 THE COURT: Yes.

5 MR. JACOBSON: So I know that a lot of these  
6 things sounds scary and look scary on their face, but I  
7 think there was really -- there was no intent to reach out  
8 to ISIS, to recruit for ISIS, to do anything with ISIS other  
9 than curiosity, which was manifested in an extremely  
10 misguided way and manifested in a way that you would hope it  
11 wouldn't, but you would understand for someone who was  
12 suffering from very severe mental health issues, very severe  
13 physical issues.

14 She is also an extremist and went about satisfying  
15 her curiosity and satisfying her desire for Islamic services  
16 in the wrong way. But I just want to be very clear that  
17 none of this had anything to do with ISIS. It had to do  
18 with someone who was suffering and wanted the services and  
19 people who could alleviate that suffering.

20 THE COURT: Okay. When I Google Arabian Travel  
21 Trans Corp., there is a drop-down which says preregister for  
22 Hajj 2018.

23 MR. JACOBSON: There's several organizations with  
24 the same name. If you look at the Arabian Travel Trans  
25 Corp. with the (877) number, it's the black car.

Proceedings

17

1 THE COURT: Oh, it's the black one?

2 MR. JACOBSON: Yes.

3 THE COURT: Okay.

4 MR. JACOBSON: I agree, Judge. There are several  
5 organizations with the same name, but the one that she  
6 called is the car service.

7 THE COURT: That's fine. Well, Google doesn't  
8 list the car services prominently.

9 MR. JACOBSON: That's the one she called.

10 THE COURT: The (877) number?

11 MR. JACOBSON: Right.

12 THE COURT: Okay.

13 MR. JACOBSON: And so I have not reviewed every  
14 Facebook message, but I think what we have from her profile  
15 posts from her Google Plus is consistent with -- and, again,  
16 the posts she made is eat less meat, more veggies. Stuff  
17 about Eid and general Islamic quotes, cooking recipes, stuff  
18 about her health, and how she was looking for people who  
19 could help her with her health issues. I think that is all  
20 consistent with what we're saying, which is that she was  
21 just trying to reach out and she reached out to people she  
22 shouldn't have and she violated the conditions of her bail.  
23 But she didn't do that because she wanted to help ISIS. She  
24 did it because she wanted to help herself.

25 THE COURT: Okay. Well, I think the situation we

Proceedings

18

1 are in now is that we do not have an alternative that is  
2 available at this point. As I understand it, we are still  
3 waiting for BOP to give the okay on the Brooklyn or Bronx  
4 halfway houses, and then we will determine whether they are  
5 acceptable.

6                 And for the New Jersey halfway house, it appears  
7 there is not a bed; is that right, and we also need to worry  
8 about -- or is there is a bed?

9                 MS. CARTER: There's one in Bridgeton.

10                THE COURT: Well, Bridgeton is one that is six  
11 hours --

12                MS. CARTER: That's six hours by public  
13 transportation.

14                THE COURT: Okay.

15                MS. CARTER: The other one is located in Newark,  
16 which is about an hour or so --

17                THE COURT: Yes.

18                MS. CARTER: -- by public transportation. It  
19 doesn't have a bed available at the time.

20                THE COURT: Okay.

21                MS. CARTER: And they don't know when one will be  
22 available.

23                THE COURT: And will we have transfer supervision  
24 to --

25                MS. CARTER: For Newark? No, we would keep it.

Proceedings

19

1 For Bridgeton, more than likely yes, because Camden -- I  
2 can't drive to Camden, Your Honor.

3 THE COURT: Okay.

4 MS. CARTER: So that's our only option, because  
5 Camden is still about maybe 45 minutes from the facility, so  
6 they would be the nearest office that works with us.

7 THE COURT: Okay. So it does not seen that we  
8 really have a lot of options right now.

9 MR. JACOBSON: Well, I wonder, Judge, and this is  
10 a question for Pretrial, whether she could temporarily be  
11 placed at the Brooklyn halfway house until an option comes  
12 available in New Jersey that has all of the strict  
13 restrictions that --

14 MS. CARTER: (Indicating.)

15 MR. JACOBSON: I'm sorry. Go ahead.

16 MS. CARTER: We can't place anyone in New York.  
17 That's our first option.

18 THE COURT: Right.

19 MS. CARTER: We can't place them without BOP  
20 giving us the okay because they have to do the referral  
21 because it's their -- the place they use to house people.  
22 So they have to give a referral for them to say yes to us.  
23 Even though we're going to pay, they have to make the  
24 referral to Brooklyn house or the Bronx halfway house.

25 MR. JACOBSON: I see.

Proceedings

20

1           THE COURT: McFarland, is that the person who can  
2 give the okay, and he is strenuously avoiding your emails,  
3 apparently?

4           MS. VON DORNUM: I can vouch for you on that,  
5 Ms. Carrera. He tends to.

6           MS. CARRERA: But do we have a sense of how long  
7 that would take, assuming he responds; is that a one-day  
8 process; is it a two-week process?

9           MS. CARTER: All he has to do is -- if he responds  
10 and he says yes, all we have to do is give them the 129,  
11 which we already have ready to send him. He has to just let  
12 the Brooklyn house or GO say, Yes, you can take her. It's  
13 just about them just saying yes.

14           MS. VON DORNUM: Right.

15           MR. JACOBSON: And I don't know --

16           THE COURT: And then if we were to do that, even  
17 temporarily, what measures could be taken to enforce the  
18 nonaccess to phones and computers?

19           MS. CARTER: So it's my understanding that  
20 whatever the Court orders, they have to follow.

21           THE COURT: Okay.

22           MS. CARTER: And that's how it goes from there.  
23 Brooklyn house is right here. I have spoken to the director  
24 about this case, not in detail, but just explain the  
25 concerns that the Court has, and they indicated that they

Proceedings

21

1 would abide by that. They have someone there that's  
2 currently under Probation on GPS, so she could be there with  
3 an ankle monitor, so... And they do have beds available  
4 right here at Brooklyn house. It's just about the mere  
5 presence.

6 THE COURT: Okay.

7 MR. JACOBSON: There's a possibility, Judge, that  
8 it be done through Probation's contract with the halfway  
9 house, because in a lot of districts, Probation and Pretrial  
10 share contracts with these facilities.

11 MS. CARTER: So at the end of the day even though  
12 it's done with their contract, they don't -- BOP's issue is  
13 that she's not sentenced, so she will not have a judgment or  
14 conviction, and their rules -- unless Mr. McFarland says  
15 okay to, they can't commingle.

16 THE COURT: What about a Court order? Would they  
17 listen to a Court order or would they not?

18 MS. CARTER: I'm not sure, Your Honor. Does the  
19 Bureau of Prisons listen to any Court orders really? No  
20 offense, but...

21 THE COURT: Nothing personal.

22 So there is nothing that the Court can do at this  
23 point to speed things up?

24 MS. VON DORNUM: I mean, a Court order may aid us  
25 with Mr. McFarland.

Proceedings

22

1           THE COURT: Okay.

2           MS. VON DORNUM: Even if it's not the final word,  
3 I think it could help move him along.

4           MS. CARTER: I mean, even a person has to go to a  
5 local facility, it's the judge's suggestion.

6           THE COURT: Right, I know.

7           MS. CARTER: So, I mean, by all means, if  
8 Your Honor wants to write something, we can get it to  
9 Mr. McFarland. I can give you his contact information. If  
10 you want to make that phone call, by all means. But it is  
11 not Pretrial's lack of trying.

12          THE COURT: No, I understand that.

13          No, but I would like to get this resolved, and I  
14 would like to make sure that we have conditions in place and  
15 that, you know, both the community and the defendant are  
16 safe at this point.

17          Does the Government have anything to add at this  
18 point if we get the conditions implemented there?

19          MS. DEMAS: I would just like to be able to  
20 confirm with the halfway house director myself what the cell  
21 phone use policy is and what the availability of computers  
22 are and whether it is something that we can actually  
23 enforce. I only say this because in the past when we looked  
24 at the three-quarter house and, you know, the probation  
25 officer along had serious concerns about that three-quarter

## Proceedings

23

1 house's ability to, you know, actually implement these  
2 restrictions. So I would just like to speak to either the  
3 director or someone in a position of power to know exactly  
4 what their people are doing. Because if it's just a matter  
5 of we trust people not to use the phones and not to bring  
6 them in, but they don't do anything to actually see if  
7 that's being adhered to, then I would, you know, have  
8 serious concerns.

9 MS. VON DORNUM: Your Honor, Ms. Carter can speak  
10 to it as well, and, obviously, Ms. Demas can speak to the  
11 director of the halfway house, but I have had several  
12 clients who received violations and were discharged from the  
13 halfway house because of possession of cell phones. So I  
14 can tell you what happens when they come into the halfway  
15 house. They have to show their purse; show their bag; have  
16 their pockets looked at if they have pockets that could hold  
17 it; and there are also, if you manage to make it past that,  
18 random room searches fairly frequently.

19 THE COURT: Okay.

20 MS. VON DORNUM: So I'm not saying that -- you  
21 know, I believe there's also a metal detector at the  
22 Brooklyn house. I don't think there is at the Bronx, but  
23 there is one at the Brooklyn house. And you are not allowed  
24 to have a cell phone unless you have a specific contract  
25 saying that you may have a device, and they monitor

Proceedings

24

1 carefully who has that and who doesn't. And they won't  
2 place residents who are allowed to have one with residents  
3 who are not allowed to have one for the reasons they don't  
4 want them to be shared if you're not supposed to have one.  
5 So they segregate the residents by room and they do random  
6 room searches.

7 THE COURT: So those would be the kinds of  
8 conditions that would give the Court some comfort. I don't  
9 know if there's anything else.

10 MS. DEMAS: Well, beyond cell phone, the computers  
11 I would want to have more information about because it's  
12 very rare to find anyplace today that does not have a  
13 computer, and those computers are not under lock and key.  
14 So I would just want to gain a better understanding at the  
15 halfway house.

16 THE COURT: Has anyone been to the Gold Street  
17 house to see where the computers are?

18 MS. GUEVARA: I don't know where they are, but I  
19 do know that people can't just go in and use them freely.  
20 My last knowledge of them there, you have a certain time  
21 where you can use the computer and there's a log-in. You  
22 can't just open them and be available for use. So she would  
23 be restricted, I think, by not having a log-in. I guess  
24 they could give her the log-in, but it's a separate room  
25 where she could go there. Somebody would notice. There's

Proceedings

25

1 staff always around watching.

2 THE COURT: Okay.

3 MS. VON DORNUM: And there are other people there  
4 who have no computer-use conditions. I have several child  
5 pornography there who have specific no-computer-use  
6 restrictions.

7 THE COURT: Okay. Well, and there would be a  
8 zero-tolerance policy on this, so, you know...

9 So no mistakes.

10 THE DEFENDANT: Yes, sir, Your Honor.

11 THE COURT: So that means if you have one  
12 violation, you're become in the MDC.

13 THE DEFENDANT: Yes.

14 THE COURT: So let's hope.

15 I think the way to leave this, it is the Court's  
16 ruling subject to the confirmation by the Bureau of Prisons  
17 that the halfway houses that are closer to court in this  
18 district would be the most appropriate at this time, rather  
19 than New Jersey, unless Pretrial Services believes  
20 otherwise.

21 And, secondly, that the Court would under the  
22 conditions that were just discussed, including the strict  
23 monitoring of and searches for cell phones and other  
24 computer-like devices, as well as GPS monitoring with an  
25 ankle bracelet, that that would be sufficient to protect the

Proceedings

26

1 community and the defendant in this situation.

2                 If the Government finds information to the  
3 contrary or believes that there is something the Court is  
4 either unaware of or has overlooked, of course, the  
5 Government should come back at any moment and advise me.  
6 But I do not want us to have to wait to have another  
7 proceeding in order to implement this if a bed becomes  
8 available and is authorized.

9                 MS. DEMAS: So, Your Honor, practically speaking  
10 concerning no place for the defendant to go now, how -- I  
11 just want to understand what the trigger will be when the  
12 bed is available. What is the thing that needs to happen to  
13 get the defendant to that point because the marshals will  
14 need an order?

15                 THE COURT: Right. So I think I would go back to  
16 Pretrial Services then and ask them what do you need from me  
17 to make this happen?

18                 MS. CARTER: Do we need an expedited or just in  
19 general?

20                 THE COURT: Well, I can have an order that says  
21 the Court directs on the Bureau of Prisons to use every  
22 effort to approve a bed for Ms. Doe.

23                 MS. CARTER: So what I can do is upon -- if  
24 Your Honor gives that letter and I give it to Mr. McFarland,  
25 I can notify the Court as soon as something is yes or a no,

Proceedings

27

1 however it goes. And if it's a yes, then does Your Honor  
2 want to see the defendant to release her, or how does that  
3 go?

4 THE COURT: No, I think this is fine. I do not  
5 think we need to --

6 Ms. Doe, do you have any questions about what you  
7 can and can't do?

8 THE DEFENDANT: As long as I have legal visits and  
9 I can go to my medical appointments --

10 THE COURT: Right.

11 THE DEFENDANT: -- am I approved for that?

12 THE COURT: You are approved for legal visits and  
13 medical visits upon approval of -- you know, you have to  
14 have an okay from the halfway house and Pretrial Services.

15 MS. VON DORNUM: You have to get permission each  
16 time.

17 THE DEFENDANT: Each time.

18 THE COURT: You cannot just go out and say, I'm  
19 going to see my lawyer.

20 THE DEFENDANT: I see.

21 THE COURT: Okay.

22 MS. DEMAS: Your Honor, the only other thing is  
23 that I think the special conditions are now actually being  
24 modified as to where they previously had been, and there's  
25 no document right now that contains any special

Proceedings

28

1 conditions --

2 THE COURT: Oh, you mean as to Hope House as  
3 opposed to --

4 MS. DEMAS: Well, Hope House, and also, you know,  
5 prior -- my understanding of the Court's -- maybe ruling is  
6 not quite the right word, but the conditions that would be  
7 imposed should the defendant be released to a halfway house  
8 are going to be stricter than the conditions that had been  
9 imposed when she was released to Hope House. So, for  
10 example, Condition 1, which is only being able to use a  
11 computer approved by Pretrial Services and the  
12 U.S. Attorney's Office is now no computer use, rather than  
13 it being limited.

14 THE COURT: Okay.

15 MS. DEMAS: And I think the telephone condition  
16 remains the same.

17 Number 3 remains the same.

18 But I just would like it to be very clear to the  
19 defendant what she can and cannot do, and that there be a  
20 document that reflects that.

21 THE COURT: Well, I do, too. I am just looking on  
22 the docket sheet to see if we have an order that can be  
23 modified.

24 MR. JACOBSON: Oh, I have a copy of it here,  
25 Judge. I think it's just a matter of modifying Paragraph 4,

Proceedings

29

1 Attachment A.

2 THE COURT: Okay. Do you know what docket number  
3 that is?

4 MR. JACOBSON: I don't.

5 THE COURT: Okay.

6 MS. DEMAS: The problem, Your Honor, is it's a  
7 sealed docket, so we can't -- unless I go through the Clerk  
8 of the Court, I can't --

9 THE COURT: Oh, really? Neither one of you  
10 could --

11 MS. DEMAS: No.

12 THE COURT: I am surprised there is not access to  
13 the parties. I thought that that is what we --

14 MS. DEMAS: There's supposed to be, but in effect,  
15 I've been told that it depends on when the case is sealed.  
16 So even know when I theoretically have access, I still need  
17 to get it from the Clerk of Court --

18 THE COURT: Okay.

19 MS. DEMAS: -- rather than...

20 THE COURT: Okay.

21 Okay. I think it is Attachment 80 on  
22 Docket Number 38. I think we can modify that.

23 Do you have a copy? I can print out another copy.

24 Does the Government have a copy as well?

25 MS. DEMAS: I don't have it in front of me,

Proceedings

30

1 Your Honor. I have other documents.

2 THE COURT: Irrelevant documents.

3 Okay. And so what I was going to suggest is that  
4 if both sides could get together and right now just redact  
5 that so that it is something that both sides agree to and  
6 are on notice of.

7 MR. JACOBSON: We'll do that, Judge.

8 THE COURT: And I have got a extra copy if you  
9 need it. I can make a copy of that if you want.

10 Do you need another clean copy?

11 MR. JACOBSON: I think we're able to use this,  
12 Your Honor.

13 THE COURT: Okay. So it is only Number 4 that we  
14 are changing?

15 MR. JACOBSON: We also have a proposed change to  
16 Paragraph 6 which I'm handing up to Your Honor.

17 THE COURT: Okay. Thank you.

18 All right. I am going to read the changes that  
19 are proposed. This is Attachment A to Docket 38 in the  
20 sealed docket of 17-CR-48. Paragraph 4 of Attachment A is  
21 completely redacted. All previous lines are redacted now  
22 and the following is substituted: "The defendant may not  
23 use a computer or any mobile device capable of connecting to  
24 the Internet." Period.

25 And Paragraph 6 contains an additional sentence at

Proceedings

31

1 the end of that paragraph. There are no redactions. It  
2 states, "Nor may the defendant contact any individual whose  
3 criminal activity she has previously reported to the  
4 Government."

5 Okay. Are these conditions now satisfactory to  
6 the defense?

7 MR. JACOBSON: They are.

8 THE COURT: To the Government?

9 MS. DEMAS: Yes, Your Honor.

10 MS. CARTER: Your Honor, I just forwarded you a  
11 document sent to me by Mr. McFarland. He advised that the  
12 defendant would need to sign this document prior to being  
13 placed. And I've sent him this docket with her 129, and he  
14 is going to review it for approval for placement.

15 Did you get the docket, Your Honor?

16 THE COURT: Okay. I have not gotten it yet.

17 (Pause in proceedings.)

18 THE COURT: Is there anything else we need the  
19 Government for, because I think you need to leave?

20 MS. DEMAS: No, Your Honor. Thank you.

21 (Ms. Demas exits the courtroom.)

22 THE COURT: Do we need to be on the record for  
23 this?

24 MS. CARTER: I don't think so, Your Honor.

25 THE COURT: I do not think without the Government

Proceedings

32

1 here, we want to continue on the record.

2 MR. JACOBSON: No.

3 THE COURT: All right.

4 (Matter on the record concluded.)

5 --oo0oo--

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10 I (we) certify that the foregoing is a correct transcript  
11 from the record of proceedings in the above-entitled matter.

12 /s/ David R. Roy  
DAVID R. ROY

September 21, 2018  
Date

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